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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 RYAN CROSS,

12 Plaintiff,

13 v.

14 JENNIFER ROSS, et al.,

15 Defendants.

CASE NO. 3:18-cv-05186-RJB-JRC

ORDER ADOPTING REPORT AND
RECOMMENDATION DENYING
PLAINTIFF'S MOTIONS

16 THIS MATTER comes before the Court on the Report and Recommendation of
17 Magistrate Judge J. Richard Creatura. Dkt. 50. The R&R recommends that two motions filed by
18 Plaintiff be denied. Plaintiff has not filed an Objection to the R&R.

19 Plaintiff brings this §1983 action to challenge in-custody medical treatment for an alleged
20 soy allergy. *See generally*, Dkt. 11. Plaintiff's first motion, Dkt. 38, entitled, "Plaintiff's Answer
21 to Defendant's [*sic*] on My Third Amended Civil Rights Complaint," seeks an order granting
22 summary judgment, "on ground's of fact that defendent's deny I have a soy allergy and calling
23 me a liar, and that I don't have a legal claim [*sic*]." Plaintiff's second motion, Dkt. 41, entitled,

1 “Plaintiff’s answer to defendant’s on my third amended civil right’s complaint [*sic*],” also seeks
2 summary judgment. Dkt. 41.

3 The Court agrees with the R&R that both motions should be construed as motions for
4 summary judgment. Neither motion is substantiated, by affidavit or otherwise, but even if so,
5 Defendant’s Response points to issues of fact as to Plaintiff’s allergies that would preclude
6 summary judgment in favor of Plaintiff. The R&R should be adopted, and summary judgment in
7 favor of Plaintiff should be denied.

8 * * *

9 THEREFORE, it is HEREBY ORDERED:

10 (1) The Report and Recommendation (Dkt. 50) is ADOPTED.

11 (2) Plaintiff’s motions, Dkts. 38 and 41, are DENIED.

12 IT IS SO ORDERED.

13 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
14 to any party appearing *pro se* at said party’s last known address.

15 Dated this 5th day of November, 2018.

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17 ROBERT J. BRYAN
18 United States District Judge
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